



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Computer Tomography Repair Service, Inc.
File: B-227746
Date: October 6, 1987

DIGEST

Contracting officer did not abuse his discretion in deciding not to set aside a particular procurement for small business concerns, even though the service previously was acquired by set-aside, where the record shows that he reasonably did not expect a sufficient number of offers from responsible small business concerns and award at a reasonable price.

DECISION

Computer Tomography Repair Service, Inc. (CTRS), protests the decision of the Veterans Administration (VA) not to set aside for small business concerns solicitation No. RFQ 28-87-ST, issued to procure monthly maintenance services for government-owned Computerized Axial Tomography (CAT) Scanner equipment at the VA Medical Center, Long Beach, California.

We deny the protest.

The VA reports that CTRS had been awarded a contract to maintain the CAT Scanner at Long Beach from October 1, 1984, through September 30, 1985, and that the contract was extended on a monthly basis from October 1985 and continuing until June 1986. The initial contract had been awarded as a small business set-aside. According to the VA, the specifications in the contemplated contract have been revised from those in the 1984-1985 contract CTRS had held.

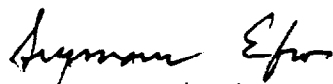
Pursuant to the Federal Acquisition Regulation (FAR), 48 C.F.R. § 19.501(g) (1986), once a service has been acquired successfully through a small business set-aside, procurements for future requirements for the service also should be set aside. The VA did not set the protested solicitation aside, however, pursuant to an exception in the regulation for the situation where the contracting officer determines that there is not a reasonable expectation that offers will be obtained from at least two responsible small business concerns, and an award will be made at a reasonable

040179

price. Before issuing the current solicitation on July 9, 1987, the VA synopsisized its requirement for an annual maintenance contract in the Commerce Business Daily, on an unrestricted basis, and subsequently sent solicitations to eight firms, both large and small, including CTRS. On June 3, 1987, the VA received five proposals, all from large businesses. Although this solicitation subsequently was canceled on June 16, 1987, for other reasons, the contracting officer relied upon this information in concluding that there was no reasonable expectation that two responsible small businesses would submit offers.

CTRS, which did not respond to the CBD synopsis or to RFQ 28-87-ST, contests the VA's conclusion that a set-aside is not warranted. However, the judgment as to whether there is a reasonable expectation that offers will be received from at least two responsible small business concerns basically involves a business decision within the discretion of contracting officials, and our review generally is limited to ascertaining whether those officials have abused that discretion. J.M. Cashman, Inc., B-220560, Nov. 13, 1985, 85-2 C.P.D. ¶ 554. Clearly, consideration of the responses to a recently issued (albeit canceled) solicitation for the same work is a proper means by which an agency can identify the availability of firms qualified to meet its needs, and determine if there is a sufficient number of qualified small businesses to warrant setting aside a later procurement. We think the VA's reliance on that factor in deciding not to set aside the current procurement for small business concerns was reasonable.

The protest is denied.

for 
James F. Hinchman
General Counsel